

NTSB Order No. EA-4492

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 15th day of October, 1996

Docket SE-14609

initial decision that the law judge rendered in this emergency revocation proceeding on September 10.<sup>2</sup> Respondent did not, however, file an appeal brief within 5 days after that date.

On September 26, 1996, respondent filed a one-page document, styled an appeal brief, which, in addition to listing several conclusory observations respecting the law judge's decision, purports to explain his failure to file a brief by September 17.<sup>3</sup> Specifically, respondent asserts in effect that the law judge led him to believe that submitting a notice of appeal within two days was all that was necessary to obtain Board review.<sup>4</sup> Respondent's recollection of the advice given to him by the law judge is in error. The hearing transcript establishes that the law judge expressly advised him of the necessity to file, within 5 days, a

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<sup>2</sup>The law judge affirmed an order of the Administrator revoking respondent's airframe and powerplant mechanic certificate with inspection authorization for his alleged violations of sections 43.5(b) and 43.12(a)(1) of the Federal Aviation Regulations, 14 CFR Part 43. The order alleges, among other things, that the respondent intentionally falsified an FAA Form 337 by approving a repaired or altered aircraft for return to service before the work had been completed.

<sup>3</sup>Respondent's document is dated September 19, but postmarked September 26. The latter date, with respect to a pleading unaccompanied by a certificate of service, is controlling for purposes of determining the date of filing. See Section 821.7(a) of the Board's Rules of Practice (49 CFR Part 821), a copy of which had been included with the Board's August 13, 1996 acknowledgment of respondent's appeal from the revocation order.

<sup>4</sup>Respondent also implies that because his notice of appeal listed several reasons why he differed with the Administrator's position in the case, he did not realize he had to assert them again. The flaw in respondent's view of the matter is that the purpose of an appeal brief is not simply to cite points of disagreement with the other party or dissatisfaction with the law judge's disposition, but, primarily, to explain to the Board why the law judge's resolution of any or all legal and factual disputes should be overturned. Section 821.48(b) of the Board's rules clearly reflects this intention:

(b) Contents of appeal brief. Each appeal brief shall set forth in detail the objections to the initial decision, and shall state whether such objections are related to alleged errors in the law judge's findings of fact and conclusions or alleged errors in his order. It shall also state the reasons for such objections and the relief requested.

brief in support of any notice of appeal that might be submitted within the two days after the decision. See Transcript at 33.

In the absence of good cause to excuse respondent's failure to comply with the time limit for filing an appeal brief, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.